

REMARKS

Reconsideration and withdrawal of the objections and rejections to the application are requested in view of the amendments and remarks presented herein, which place the application into condition for allowance, or at least into better condition for appeal.

I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 1 and 3-16 are pending in this application. Claim 1 is amended. No new matter has been added. Specifically, support for the amendment to claim 1 can be found in canceled claim 18.

It is submitted that these claims are patentably distinct from the prior art, and that these claims are and were in full compliance with the requirements of 35 U.S.C. §112. The amendments of the claims herein are not made for the purpose of patentability within the meaning of 35 U.S.C. §§§§ 101, 102, 103 or 112; but rather, the amendments are made simply for clarification and to round out the scope of protection to which Applicants are entitled. Furthermore, it is explicitly stated that the herewith amendments should not give rise to any estoppel, as the herewith amendments are not narrowing amendments.

II. THE REJECTION UNDER 35 U.S.C. §112, 1ST PARAGRAPH, IS OVERCOME

Claims 1 and 3-16 were rejected under 35 U.S.C. §112, first paragraph, as allegedly lacking adequate written description. The rejection is traversed.

The Office Action notes that part a) of claim 1 is directed to a nucleic acid molecule comprising Seq ID No. 1. The other parts of claim 1 (b-e) are directed to fragments or variants of Seq ID No. 1, and therefore are all structurally related. Page 4 of the Office Action states that “nucleic acids comprising SEQ ID NO:1-8, comprising a functional portion of SEQ ID NO:1, or comprising a nucleic acid that hybridizes with or has at least about 95-99% identity with a nucleic acid consisting of any one of SEQ ID NO:1-8 and having the function of a caryopsis-specific promoter meets the written description guidelines.” The Examiner is thanked for helpfully indicating what embodiments of the invention he considers to be adequately described; claim 1 has been amended accordingly.

Reconsideration and withdrawal of the rejection under 35 U.S.C. §112, first paragraph, is requested.

CONCLUSION

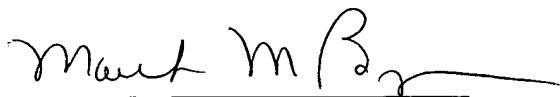
Applicants believe that the application is in condition for allowance, and favorable reconsideration of the application and prompt issuance of a Notice of Allowance are earnestly solicited. The Examiner is invited to contact the Applicants' representative if there are issues that could be resolved telephonically, leading to allowance of the application.

Alternatively, consideration and entry of this paper is requested, as it places this application into better condition for purposes of appeal. A Notice of Appeal, in triplicate, together with the required fee, is filed concurrently herewith.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicants

By:



Marilyn Matthes Brogan
Registration No. 31,223

Anne-Marie C. Yvon, Ph.D.
Registration No. 52,390
(212) 588-0800

This Notice is being filed in triplicate, together with a Petition for a three-month extension of time, and a Rule 116 Amendment.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicant

By:

Marilyn Matthes Brogan
Marilyn Matthes Brogan
Reg. No.: 31,223

Anne-Marie C. Yvon, Ph.D.
Reg. No.: 52,390
(212) 588-0800